17118

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 245.

THE UNITED STATES, APPELLANT,

vs.

KLEINWORT SONS AND COMPANY, CLAIMANTS OF THE CARGO OF THE SPANISH BARK "CARLOS F. ROSES."

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

FILED MARCH 26, 1900.

(17118.)

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1 In the district court of the United States, southern district of Florida.

UNITED STATES OF AMERICA
vs.
THE SPANISH SHIP "CARLOS F. ROSES." } Prize.

To the honorable James W. Locke, judge of the district court of the United States for the southern district of Florida:

The libel of Joseph N. Stripling, attorney of the United States for the southern district of Florida, who libels for the United States and for all parties in interest against the sailing vessel "Carlos F. Roses," her tackle, apparel, furniture, and cargo, in a cause of prize, alleges—

That pursuant to instructions from the President of the United States F. E. Chadwick, captain of the United States Navy, in and with the United States ship of war the "New York," her officers and crew, did, on the 17th day of May, in the year of our Lord one thousand eight hundred and ninety-eight, subdue, seize, and capture on the high seas, as prize of war, the said "Carlos F. Roses," with a valuable cargo on board of the same; and that the said ship and cargo have been brought into the port and harbor of Key West, in the State of Florida, where the same now are, within the jurisdiction of this court; and that the said vessel and cargo are lawful prize of war and subject to be condemned and forfeited to the United States as such.

Wherefore the said attorney prays that all persons having or claiming any interest in said vessel or cargo may, by the proper process of this court, be duly notified of the allegations and prayers of this libel and cited to appear and claim the same; that the nature, amount, and value of said cargo may be determined, and that, on proper proofs being taken and heard and all due proceedings being had, the said "Carlos F. Roses," together with her tackle, apparel, furniture, and cargo may, on

2 final hearing of this cause, by the definitive sentence and decree of this court, be condemned, forfeited, and sold as a prize of war and the proceeds distributed according to law.

J. N. STRIPLING,
U. S. Atty., S. D. of Florida.

* * * * * * *

Let attachment and motion issue as prayed, returnable the sixth day of June, 1898, A. D., at 10.30 a. m.

J. W. LOCKE, *Judge.*

* * * * * * *

(Endorsed:) United States vs. "Carlos F. Roses." Libel. Filed May 20, 1898. E. O. Locke, clerk.

3 Whereupon attachment issued as prayed to the marshal of said district, commanding him forthwith to seize and take into his possession said sailing vessel "Carlos F. Roses" and cargo, and her safely to hold until the further order of this court.

Which attachment was afterwards returned by said marshal duly executed, with his return thereon endorsed, and is on file in said clerk's office.

Also monition was issued to said marshal, commanding him forthwith to summon all persons having any interest in or to said sailing vessel "Carlos F. Roses" or cargo to appear before an admiralty session of said court on sixth day of June, A. D. 1898, at 10.30 a. m., and show cause, if any they have, why said decree shall not be rendered as prayed.

Which monition was by said marshal afterwards returned, duly executed, with his return endorsed thereon, and is on file in said clerk's office.

4 In the district court of the United States, southern district of Florida.

Spanish bark "Carlos F. Roses." Prize.

Frank H. Brumby, being duly sworn, says: My name is Frank H. Brumby; I am ensign, U. S. Navy, on board U. S. ship "New York;" that on the 17th day of May, A. D. 1898, the Spanish bark "Carlos F. Roses" was captured as a prize of war by the U. S. S. "New York," commanded by Capt. F. E. Chadwick; that said bark "Carlos F. Roses" was delivered by said Capt. Chadwick to Rear-Admiral Wm. T. Sampson (commanding North Atlantic squadron), together with documents and other papers found on said bark; that said bark "Carlos F. Roses," with said documents and papers aforesaid, were turned over to affiant as prize master, with instructions to proceed to Key West, Fla.

That the papers and documents this day delivered to the undersigned prize commissioner, at Key West, Fla., are the identical documents and papers pertaining to the said bark "Carlos F. Roses" delivered to him and that they are in the same condition as when delivered to him.

(sd) F. H. BRUMBY,
Ens., U. S. N.

Sworn to and subscribed before me this 20th day May, A. D. 1898.

(sd) WINN, *Comdr., U. S. N.,*
Prize Commissioner.

(Endorsed:) Affidavit prize master, bark "Carlos F. Roses." Filed May 20, 1898. E. O. Locke, clerk.

5 *Standing interrogatories*

established by the district court of the United States for the southern district of Florida to be administered in prize causes in said court to all persons who may be produced as witnesses to be examined in preparatorio.

1st interrogate. What is your name, where were you born, and where have you lived for the last seven years? Where do you now live, and how long have you lived in that place? To what prince or state, or to whom are you, or have you ever been, a subject? Are you a married man, and if married, where do your wife and family reside?

2d interrogate. Were you present at the time of taking and seizing the ship, or her lading, or any of the goods or merchandises concerning which

you are now examined? Had the ship concerning which you are now examined any commission; what, and from whom?

3d interrogate. In what place, latitude, or part, and when was the said ship and goods, concerning which you are now examined, taken and seized? Upon what pretence and for what reasons were they seized? Into what port were they carried, and under what colors did the said ship sail? What other colors had you on board, and for what reason had you such other colors? Was any resistance made at the time when the said ship was taken; and if yea, how many guns were fired, and by whom, and by what ship or ships were you taken? Was the ship or vessel by which you were captured a ship of war or a vessel acting without any commission, as you believe? Were any other, and what, ship in sight at the time of the capture?

4th interrogate. What is the name of the master or commander of the ship or vessel taken? How long have you known the said master, and who appointed him to the command of said vessel? Where did said commander take possession of her, at what time, and what was the name of the person who delivered the possession to the said master? Where doth he live? Where is the said master's fixed place of abode, and where doth he generally reside? How long has he lived there, where was he born, and of whom is he now a subject? Is he married? If yea, where does his wife and family reside?

5th interrogate. Of what burden is the vessel which has been taken? What was the number of her mariners, and of what country were the said seamen and mariners? Did they all come on board at the same port or at different ports, and who shipped or hired them, and when and where?

6th interrogate. Had you, or any of the officers or mariners belonging to the ship or vessel, concerning which you are now examined, any, and what, part, share, or interest in the said vessel or her lading? If yea, set forth who and what goods or interest you or they have? Did you belong to the said vessel at the time she was seized and taken? In what capacity did you belong to her? How long have you known her? When and where did you first see her, and where was she built?

7th interrogate. What is the name of the vessel? How long has she been so called? Do you know of any other name or names, and what are they, by which she has heretofore been called? Had she any passport or sea chart on board, and from whom? To what ports and places did she sail during her said voyage before she was taken? Where did her last voyage begin, and where was the said voyage to have ended? From what port and at what time, particularly from the last clearing port, did the said ship sail previously to the capture? Set forth all the ports to which she has sailed and at which she has touched and traded during her whole voyage out and home.

8th interrogate. What lading did the said vessel carry at the time of her first setting sail on her last voyage, and what sort of lading and goods had she on board at the time she was taken? When was the same put on board? Set forth the different species of lading and the quantity of each sort. Has any part of the cargo of said vessel been unladen since the commencement of her original voyage? If so, at what ports or places was it unladen? State the articles which were unladen.

9th interrogate. Who were the owners of the vessel at the time when she was seized? How do you know that they were owners at that time? Of what nation or country are such owners by birth? Where do they reside, and where do their wives and families reside? How long have they resided there? Where did they reside before, to the best of your knowledge? To whom are they subject? How long have the present owners been in possession, and of whom did they purchase?

10th interrogate. Was any bill of sale made, and by whom, to the aforesaid owners of said vessel? And if any such were made, in what month and year, and where, and in the presence of what witnesses? Was any, and what, engagement entered into concerning the purchase further than appears on the bill of sale? If yea, was it verbal or in writing? Where did you last see it, and what has become of it?

11th interrogate. Was the said lading put on board at one port and at one time or at several ports and at several times, and at what ports, by name? Set forth what quantities of each sort of goods were shipped at each port.

12th interrogate. What are the names of the respective laders or owners or consignees of said goods? What countrymen are they? Where do they now live and carry on their business? How long have they resided there? Where did they reside before, to the best of your knowledge? And where were the said goods to be delivered, and for whose real account, risk, or benefit? Have any one of the said consignees or shippers any, and what, interest in the said goods? If yea, whereon do you found your belief that they have such interest? Do you verily believe that at the *at the* time of the lading the cargo, and at the present time, and also if said goods shall be restored and unladen at the destined port, the goods did, do, and will belong to the same persons and to none others?

6 13th interrogate. How many bills of lading were signed for the goods seized on board the said ship? Were any of those bills of lading false or colorable, or were any bills of lading signed which were different in any respect from those which were on board the ship at the time she was taken? What were the contents of such other bills of lading, and what became of them?

14th interrogate. Are there in the United States of America any bills of lading, invoices, letters, or instruments relative to the ship and goods concerning which you are now examined? If yea, set forth where they are, and in whose possession, and what is the purport thereof, and when they were brought or sent to the United States.

15th interrogate. Was there any charter party signed for the voyage in which the ship concerning which you are now examined was seized and taken? What became thereof? When, where, and between whom was such charter party made? What were the contents of it?

16th interrogate. What papers, bills of lading, letters, or other writings were on board the ship at the time she took her departure from the last clearing port, before her being taken as prize? Were any of them burnt, torn, thrown overboard, destroyed or cancelled, or attempted to be concealed, and when, and by whom, and who was then present?

17 interrogate. Has the ship concerning which you are now examined been at any time, and when, seized as a prize, and condemned as such?

If yea, set forth into what port she was carried, and by whom, and by what authority or on what account she was condemned?

18th interrogate. Have you sustained any loss by the seizing and taking the ship concerning which you are now examined? If yea, in what manner do you compute such your loss? Have you already received any indemnity, satisfaction, or promise of satisfaction for any part of the damage which you have sustained or may sustain by this capture and detention, and when, and from whom?

19th interrogate. Is the said ship or goods, or any and what part, insured? If yea, for what voyage is such insurance made, and at what premium, and when, and by what persons, and in what country was such insurance made?

20th interrogate. In case you had arrived at your destined port, would your cargo, or any part thereof, on being unladen, have immediately become the property of the consignees or any other person, and whom? Or was the lader to take the chance of the market for the sale of his goods?

21st interrogate. Let each witness be interrogated of the growth, produce, and manufacture of what country and place was the lading of the ship or vessel concerning which you are now examined, or any part thereof.

22d interrogate. Whether all the said cargo, or any and what part thereof, was taken from the shore or quay, or removed or tran'shipped from one boat, barque, vessel, or ship to another? From what and to what shore, quay, boat, barque, vessel, or ship, and when and where, was the same so done?

23d interrogate. Are there in any other country, and where, or on board any and what ship or ships, vessel or vessels, other than the ship and vessel concerning which you are now examined, any bills of lading, invoices, letters, instruments, papers, or documents relative to the said ship or vessel and cargo, and of what nature are such bills of lading, invoices, letters, instruments, papers, or documents, and what are the contents? In whose possession are they, and do they differ from any of the papers on board, and in what particular do they differ?

24th interrogate. Were any papers delivered out of the said ship or vessel and carried away in any manner whatsoever? And when, and by whom, and to whom, and in whose custody, possession, or power do you believe the same now are?

25th interrogate. Was bulk broken during the voyage in which you were taken, or since the capture of the said ship? And when, and where, by whom, and by whose orders, and for what purpose, and in what manner?

26th interrogate. Were any passengers on board the aforesaid ship? Were any of them secreted at the time of the capture? Who were the passengers, by name? Of what nation, rank, profession, or occupation? Had they any commission? For what purpose and from whom? From what place were they taken on board, and when? To what place were they finally destined, and upon what business? Had any and which of the passengers any and what property, or concern, or authority, directly or indirectly, regarding the ship and cargo? Were there any officers, soldiers, or mariners secreted on board, and for what reason were they

secreted? Were any of the citizens of the United States on board, or secreted or confined, at the time of the capture? How long and why?

27th interrogate. Were and are all the passports, sea briefs, charter parties, bills of sale, invoices, and papers which were found on board entirely true and fair? Or are any of them false or colorable? Do you know of any matter or circumstances to affect their credit? By whom were the passports or sea briefs obtained, and from whom? Were they obtained for this ship only? And upon the oath or affirmation of the persons therein described, or were they delivered to or on behalf of the person or person' who appear to have been sworn, or to have affirmed thereto, without their ever having, in fact, make any such oath or affirmation? How long time were they to last? Was any duty or fee payable and paid for the same? And is there any duty or fee to be paid on the renewal thereof? Have such passports been renewed, and how often? And has the duty or fee been paid for such renewal? Was the ship in a port in the country where the passports and sea briefs were granted? And if not, where was the ship at the time? Had any person on board any let-pass or letters of safe-conduct? If yea, from whom and for
7 what business? Had the said ship any license or passport from any foreign power or authority during the voyage? If so, state from whom been obtained and for what purpose and use.

28th interrogate. Have you written or signed any letters or papers concerning the ship and her cargo other than those found on board and delivered to her captors? If yea, what was their purport, to whom were they written and sent, and what is become of them?

29th interrogate. Towards what port or place was the ship steering her course at the time of her being first pursued and taken? Was her course altered upon the appearance of the vessel by which she was taken? Was her course at all times, when the weather would permit, directed to the place or port for which she appears to have been destined by the ship's papers? Was the ship before or at the time of her capture sailing beyond or wide of the said place or port to which she was so destined by the said ship's papers? At what distance was she therefrom? Was her course altered at any and what time, and to what other port or place, and for what reason?

30th interrogate. By whom and to whom hath the said ship been sold or transferred, and how often? At what time and at what place and for what sum or consideration hath such sum or consideration been paid or satisfied? Was the sum paid or to be paid a fair and true equivalent? Or what security or securities have been given for the payment of the same, and by whom, and where do they live now? Do you know or believe, in your conscience, such sale or transfer has been truly made and not for thepurposes of covering or concealing the real property? Do you verily believe that if the ship should be restored she will belong to the persons now asserted to be the owners and to none others?

31st interrogate. What guns were mounted on board the ship, and what arms and ammunition were belonging to her? Why was she so armed? Were there on board any other, and what, arms and ammunition, and when and where they put on board; and by whom or by what authority or for what purpose or destination, and on whose account were they put on board.

32d interrogate. What is the whole which you know or believe, according to the best of your knowledge and belief, regarding the real and true property and destination of the ship and cargo, concerning which you are now examined at the time of the capture?

8 In the district court of the United States, in and for the southern district of Florida. In admiralty.

THE UNITED STATES OF AMERICA
vs.
SPANISH BARK "CARLOS F. ROSES." } Prize.

Deposition of Ysidro Bettran Maristany, a witness produced, sworn, and examined in preparatorio, on the 26th day of May, A. D. 1898, at the United States court-house, Key West, Florida, in said district, on the standing interrogatories established by the district court of the United States for the southern district of Florida, the said witness having been produced for the purpose of such examination in behalf of the captors of a certain ship or vessel called the "Carlos F. Roses" and her cargo.

1. To the first interrogatory deponent answers:

My name is Ysidro Bettran Maristany. I was born in Barcelona, Spain. In the last seven years I have been sailing on the high seas. I am a married man, and my wife and family resides in Barcelona, Spain. I am a subject of Spain.

2. To the second interrogatory deponent answers:

I was present at the time of the capture of the ship. The ship has a royal patent, issued by the Spanish Government.

9 3. To the 3d interrogatory deponent answers:

The ship was captured in the Bahama Channel, near Matternillos, Cuba. She was captured on the 17th day of May, A. D. 1898, at about 3 p. m. We were captured on account of the war between Spain and the United States. The ship sailed under the Spanish flag. We had no other colors on board. After capture we were brought into the port of Key West. We made no resistance to the capture. We were captured by the U. S. S. "New York." There were no other ships present at the time, but we afterwards saw some war ships.

4. To the 4th interrogatory deponent answers:

I am the master of the ship captured. I was appointed to the command of the vessel by P. Roses Valenti. I took possession of the ship about three years ago at Barcelona, Spain. The owner delivered the possession to me. The owner and his family live in Barcelona, Spain.

5. To the 5th interrogatory deponent answers:

The vessel is of 499 tons. She had 14 mariners, including myself. They were all Spaniards. They all came on board at Barcelona. I hired them.

6. To the 6th interrogatory deponent answers:

Neither myself or any of the crew had any interest in the ship or her cargo. I was captain of the vessel at the time she was seized. I have known the vessel about six years. I first saw her in Havana, Cuba. She was built in Italy.

7. To the 7th interrogatory deponent answers:

The vessel is named the "Carlos F. Roses." She has been called by that name about five years. She had another name, which was
10 "Teresa Feguras." She had no passports or sea charts on board.

Her last voyage began at Barcelona, and we then went to Montevideo, and from said last-named place we started for Havana, Cuba, when we *we* were captured as aforesaid.

8. To the 8th interrogatory deponent answers:

When we sailed from Barcelona we had on board a cargo of wine and salt. When we were captured we had on board a cargo of garlic and jerked beef. The same was put on board on or about the 13th day of March, 1898. We had on board nearly 6,000 kintals of jerked beef and about 19,800 bunches of garlic. The outward cargo was discharged at Montivedeo.

9. To the 9th interrogatory deponent answers:

The owner of the vessel at the time she was seized was F. Roses Valenti, to the best of my knowledge and belief. He is a Spaniard by birth. He and his family resides in Barcelona. They are Spanish subjects. The present owners have been in possession many years. I do not know from whom they purchased. The royal patent will show.

10. To the 10th interrogatory deponent answers:

I do not know anything about any bill of sale.

11. To the 11th interrogatory deponent answers:

The cargo was all put on board at Montivedeo, Arg. Rep., at one time.

11 12. To the 12th interrogatory deponent answers:

The persons who shipped the goods were Pla Gibernan & Co. I do not know the consignees. The shippers live in Montivedeo, and carry on their business in said place. The said goods were to be delivered at Havana subject to order. I do not know who the goods belong to.

13. To the 13th interrogatory deponent answers:

I signed four bills of lading for each kind of cargo. They are all true and correct.

14. To the 14th interrogatory deponent answers:

There are not in the United States, as far as I know, any bills of lading, invoices, letters, or instruments relative to the ship and her cargo.

15. To the 15th interrogatory deponent answers:

The ship was not sailing under a charter party.

16. To the 16th interrogatory deponent answers:

At the time we took our departure from the last clearing port we had a royal patent, muster roll, invoices, and bills of lading. All of the papers were delivered to the prize master. None of the papers were torn, burnt, or destroyed.

17. To the 17th interrogatory deponent answers:

The ship, not my knowledge, has ever been seized or condem'ed as a prize.

12 18. To the 18th interrogatory deponent answers:

I have lost my wages by the seizure of the ship. I have not received any indemnity or promise of indemnity for any loss which I have or may sustain by this capture.

19. To the 19th interrogatory deponent answers:
The ship and cargo are not insured, as far as I know.
20. To the 20th interrogatory deponent answers:
If I had arrived at the port of destination I do not know to whom the cargo would belong. The manifest simply shows that the cargo was to be delivered at Havana "to the order."
21. To the 21st interrogatory deponent answers:
The cargo was produced in Urugvay, S. A.
22. To the 22d interrogatory deponent answers:
All the cargo was taken on board from lighters at Montivedeo.
23. To the 23d interrogatory deponent answers:
I do not know if there are any bills of lading or other papers on board any other ship or in any country relating to the ship and cargo.
24. To the 24th interrogatory deponent answers:
The only papers delivered out of or carried away from the ship were those delivered to the prize master.
13 25. To the 25th interrogatory deponent answers:
The bulk of the cargo was not broken during the voyage, nor since the capture.
26. To the 26th interrogatory deponent answers:
There were no persons of any description on board said vessel at the time of her capture, except the crew and master.
27. To the 27th interrogatory deponent answers:
All the papers found on the vessel are entirely true and correct.
28. To the 28th interrogatory deponent answers:
I have not signed or written any papers or letters concerning the ship and her cargo since the capture.
29. To the 29th interrogatory deponent answers:
We were steering for Havana when the ship was captured. Her course was not altered upon the appearance of the vessel by which we were taken. Her course was at all times directed toward Havana. She was about 220 miles from Havana when captured.
30. To the 30th interrogatory deponent answers:
I do not know to whom or from whom the said ship has been transferred. If the ship should be restored I believe she would belong to the person named as the owner.
14 31. To the 31st interrogatory deponent answers:
There were no guns on board the said vessel and no arms or ammunition of any description except four old bayonets.
32. To the 32d interrogatory deponent answers:
I have already stated all that I know concerning the true property and destination of the said ship and her cargo.

YSIDRO BETTRAN MARISTANY.

Sworn to and subscribed before me May 26th, 1898.

J. W. PHIPPS,
U. S. Prize Commissioner.

(Endorsed:) United States vs. "Carlos F. Roses" & cargo. Deposition of Y. B. Maristany. In preparatorio. Filed May 26, 1898. E. O. Locke, clerk.

15 District court of the United States for the southern district of Florida.

THE UNITED STATES OF AMERICA,
against
THE BARK "CARLOS F. ROSES" AND HER CARGO. } In prize.

Herman Greverus Kleinwort and Alexander Drake Kleinwort, composing the copartnership firm of Kleinwort Sons & Company, of London, England, claim a shipment of 110,256 kilos of jerked beef and 19,980 strings of garlic, and a further shipment of 165,384 kilos of jerked beef, shipped on the said bark "Carlos F. Roses," as the true and lawful owners thereof under advances made by them upon the security of the bills of lading in the aggregate amount of £6,297 British sterling, equivalent to $30,644.35, the said shipments now being proceeded against in the above-entitled action, and the same not being lawful prize of war.

KLEINWORT, SONS & COMPANY.
By WM. A. FAIN.

WILHELMUS MYNDERSE,
G. BOWNE PATTERSON,
Proctors.

16 District court of the United States for the southern district of Florida.

THE UNITED STATES OF AMERICA,
against
THE BARK "CARLOS F. ROSES" AND HER CARGO. } Test affidavit.

COUNTY OF MONROE, STATE OF FLORIDA,
Southern District of Florida, ss:

William H. Fain, being duly sworn, deposes and says that he is a resident of the city of New York and a citizen of the United States of America.

Deponent further says that he is specially authorized to act for and on behalf of the copartnership firm of Kleinwort Sons & Company, of London, England, claimants of a shipment of 110,256 kilos of jerked beef and 19,190 strings of garlic and a further shipment of 165,384 kilos of jerked beef shipped on the said bark "Carlos F. Roses," to make claim therefor on their behalf.

Deponent further says, upon information and behalf, that the said firm of Kleinwort Sons & Company are merchants of the city of London; that said firm is constituted of Herman Greverus Kleinwort and Alexander Drake Kleinwort, both domiciled in London and both citizens and subjects of the United Kingdom of Great Britian and Ireland.

Deponent further says upon information and belief, that in the months of February and March, 1898, the said bark "Carlos F. Roses," being then in Montevideo, bound on a voyage to Havana, Cuba, took on
17 board a cargo of jerked beef and strings of garlic shipped by Pla Gibernau & Company, of Montevideo, to be transported to the said port of Havana, there to be delivered to the order of the shippers according to the conditions of certain bills of lading issued therefor by the said bark to the said Pla Gibernau & Company.

Deponent further says, upon information and belief, that the said ship-

pers Pla Gibernau & Company are merchants domiciled in, and citizens of the Argentine Republic.

Deponent further says that, being laden with the cargo aforesaid, the said bark set sail from Montevideo on the 16th day of March, 1898, and proceeded upon her voyage to Havana until the 17th of May, when she had reached a point in the Bahama Channel off Martinique, at which time and place she was captured by the United States cruiser "New York," without resistance on the part of the said bark, and thereupon the said cruiser "New York" put on board the said bark a prize master and crew who brought the said bark into this port of Key West, where she and her cargo have been libeled as prize of war.

Doponent further says, upon information and belief, that upon and after the shipment of the said cargo in Montevideo the claimants, copartners as aforesaid, long prior to the capture of the said bark and her cargo, made advances to the shippers and owners of said cargo in the sum of £6,297 British sterling, to wit, £2,714, item thereof, upon the security of the said lot of 110,256 kilos of jerked beef and 19,980 strings of garlic, and £3,583, item thereof, upon the security of the said lot of 165,384 kilos of jerked beef; that at the time of making said advances and in consideration of such advances, the said bills of lading covering said shipments were delivered to the claimants, duly
18 endorsed in blank with the intent and purpose that they should thereby take the title to said bills of lading and to the said shipments of jerked beef and garlic, and should, upon arrival of the said vessel at destination, take delivery of said shipments and hold the same as security for their said advances until paid, with full right to receive and possess and dispose of the said shipments and to apply the proceeds to the payment of their said advances; and accordingly the said Kleinwort Sons & Company did become and ever since have been and still are as aforesaid the true and lawful owners of the said bills of lading and of the shipments of jerked beef and garlic therein referred to.

Deponent further says that the said advances so as aforesaid made by the claimants in the amount of £6,297 British sterling were substantially in the estimated value of the said shipments and much in excess of their actual value in this port, and that the said sum is equivalent in money of the United States to about $30,644.35, and that no part of the same has been paid or otherwise secured to be paid.

Deponent further says that this affidavit is made by him upon information transmitted by cablegram, and that it is necessarily incomplete, and he prays leave, therefore, to supplement the same hereafter as justice may require.

Wherefore claim is made on behalf of said Kleinwort, Sons & Company to the aforesaid shipments, and it is averred on their behalf that the claimants were at the time of the capture of the said bark and her cargo the lawful owners of said shipments, and that the said shipments are not and never have been the subjects of lawful prize, and it is prayed that the same may be restored to the claimants.

W. H. FAIN.

Sworn to before me this 31st day of May, 1898.

J. OTTO, *Dy. Clerk.*

(Endorsed:) United States vs. "Carlos F. Roses." Claim of Kleinwort, Sons & Co. Filed May 31, 1898. E. O. Locke, clerk.

19 In the district court of the United States, southern district of Florida.

UNITED STATES
against
SPANISH BARK "CARLOS F. ROSES," AND CARGO.

This cause coming on to be heard upon the allegation of the libel and the claims of the master and owners of said cargo, and testimony taken in preparatorio, and it appearing that said vessel was enemy's prope'ty, and seized upon the high seas:

It is ordered, adjudged, and decreed that the said vessel be condemned and forfeited to the United States, and the marshal proceed to advertise and sell same and deposit the proceeds with the assistant treasurer of the United States at New York, in accordance with law; but the ownership of the cargo not satisfactorily appearing from the testimony in preparatorio, it is ordered that the claimants thereof have sixty days in which to file further proof of ownership; and it further appearing that said cargo is of a perishable nature, it is ordered that the marshal proceed to advertise and sell same and deposit the proceeds in accordance with law, to abide the further order and judgment of the court herein.

JAMES W. LOCKE, *Judge.*

KEY WEST, FLORIDA, *June 2nd, 1898.*

(Endorsed:) The United States vs. The Spanish bark "Carlos F. Roses" and Cargo. Decree. Filed June 2, 1898. E. O. Locke, clerk.

20 Whereupon a writ of vendi-tioni exponas was issued to the marshal commanding him forthwith after due advertisement to sell at public auction the said Spanish bark "Carlos F. Roses," her tackle, apparel, furniture, and cargo, and deposit the proceeds thereof in accordance with law.

Which writ was afterwards returned showing that in accordance therewith he had sold at public auction the said vessel for the sum of $1,310, and the cargo for the sum of $16,750, which sums he had deposited with the assistant treasurer of the United States at New York, subject to the order of said court.

Which writ with the return thereon endorsed, together with the vouchers for expenses, remain on file in the clerk's office.

21 District court of the United States for the southern district of Florida.

THE UNITED STATES OF AMERICA, LIBELLANTS,
against
THE BARK "CARLOS F. ROSES" AND HER CARGO.

The time for claimants of cargo to take and file their further proofs herein is hereby extended to and including August 31, 1898.

JAMES W. LOCKE, *Judge.*

We consent to the foregoing order.

WILHELMUS MYNDERSE,
For Claimants.

Rec'd copy of above July 28th, 1898.

J. N. STRIPLING, *U. S. Att'y.*

(Endorsed:) United States vs. bark "Carlos F. Roses" and her Cargo. Order extending time. Filed July 28, 1898. E. O. Locke, clerk.

22 District court of the United States, southern district of Florida.

UNITED STATES OF AMERICA, LIBELLANT,
against
THE BARK "CARLOS F. ROSES" AND HER CARGO.

The time of the claimants of cargo to take and file further proofs herein is hereby extended to and including October 15th, 1898.

Dated August 16, 1898.

JAMES W. LOCKE, *Judge.*

We consent to the foregoing order.

EDWARD K. JONES,
Special Counsel for U. S.

WILHELMUS MYNDERSE,
For Cargo.

(Endorsed:) United States vs. The Bark "Carlos F. Roses" and her cargo. Order extending time to file further proof until Oct. 15, 1898. Filed August 16, 1898. E. O. Locke, clerk.

23 THURSDAY, *February 2nd, 1898.*

Present: Honorable James W. Locke, judge.

UNITED STATES
vs.
SPANISH BARK "CARLOS F. ROSES" AND CARGO. } Prize.

Now comes the United States, by its attorney, Jos. N. Stripling, esq., and moves the court for the condemnation of the cargo of said vessel, which said motion is fully argued by F. M. Brown, esq., counsel for claimants, and Jos. N. Stripling, esq., counsel for the Government, and submitted.

(Minutes of said court, page 482, Series "A.")

24 United States district court, southern district of Florida.

THE UNITED STATES OF AMERICA
against
THE BARK "CARLOS F. ROSES" AND HER CARGO. } Prize.

This cause coming to be heard upon the claim of Kleinwort, Sons & Company, for the proceeds of sale of the cargo in this case, and having been fully heard by the testimony and further proof, and duly argued and submitted:

Upon consideration, it is ordered, adjudged, and decreed that the claim be allowed, and that the claimants have, receive, and recover the proceeds

of said sale, after the payment of all costs and expenses necessarily incurred in the case, custody, and preservation and sale of said property, and that a check be drawn for the amount of , such proceeds, upon the Assistant Treasurer of the United States, at New York, in full for such claim.

JAMES W. LOCKE, *Judge.*

JACKSONVILLE, FLORIDA, *February 8, 1899.*

25 United States district court, southern district of Florida.

THE UNITED STATES OF AMERICA
against
THE BARK "CARLOS F. ROSES" AND HER CARGO. } Prize.

Opinion.

This cargo, consisting of about 275,000 kilos of jerked beef and 20,000 strings of garlic, was shipped on board the vessel at Montevideo by Pla Gibernau & Company, on the 14th of March, 1898. The property was consigned upon three bills of lading to the order of the shippers, and bills of exchange, at ninety days, were drawn upon the claimants. The first of these, for £2,714, was drawn by the shippers, and the second, for £3,583, was drawn by the master in favor of the shipper. They were both cashed by the London and River Plate Bank, were presented to the claimants, and accepted by them on April 6th, and when due paid. At the time that these bills of exchange were accepted, one of the bills of lading, the one drawn by the shipper, came into the possession of the claimants; subsequently, the other one drawn by the master. They were forwarded to the claimants' agent in Havana for the purpose of collecting from the cargo upon its arrival the amount of advances by the claimants in paying such bills of exchange, but in the meantime the vessel was captured, the cargo never reached that city, and subsequently the endorsed bills of lading were returned to the claimants.

26 The only question is, In whom was the title and right of possession at the time of the capture? The possession of a properly endorsed bill of lading of a cargo for a valuable consideration is not only evidence of a jus in re, and right of property and possession of it, until such rights and claims are otherwise satisfied. This is a well-established and well-accepted principle of commercial law. From the time the first bill of lading was in the possession of the claimants—namely, the 6th of April, long before any declaration of war—they had the right to the property represented by it. It is true, the bill of lading representing the property against which the second bill of exchange was drawn—that drawn by the master—is not shown affirmatively to have reached the hands of the claimants at the same time, nor is the date at which it passed into their possession shown, but it is shown to have passed, upon being drawn by the master, into the hands of a neutral, the purchaser and shipper of the cargo, by them transferred to the claimants. Any transfer in title made between neutrals, even while the property is in transitu, can in no way effect the right of possession. It is only transfers or changes of title made between enemies and neutrals while property is in transitu which will not be recognized by prize courts.

It appears, therefore, satisfactorily from the proof that both the title and right of possession to the property was in a neutral at the time of the capture, as evidenced by the endorsed bills of lading and the paid bills of exchange presented at, and the claim is allowed, and it is so ordered.

(Endorsed:) United States vs. Bark "Carlos F. Roses." Order allowing claim of Kleinwort, Sons & Co. Filed Feb. 9, 1899. E. O. Lock.

27 In district court of United States, southern district of Florida.

UNITED STATES *vs.* THE "CARLOS F. ROSES" AND CARGO.	Claim of Kleinwort, Sons & Co.

And now comes the above-named plaintiff and appellant and makes assignments of error in respect of the decision and decree of the court, rendered herein on the 8th day of February, A. D. 1899, allowing the claim of the above-named claimants, Kleinwort, Sons & Company, and discharging the cargo of said vessel:

First. That the district court erred in holding that the cargo of jerked beef and garlic claimed by said claimants was not a lawful prize of war.

Second. That the district court erred in discharging said cargo of jerked beef and garlic and ordering the same restored to the said claimants.

Third. That the district court erred in holding that the said cargo of jerked beef and garlic claimed by the above-named claimants, was privileged and exempt from capture and condemnation as being property owned by neutrals.

Fourth. That the said district court erred in not holding that the cargo of jerked beef and garlic claimed by the above-named claimants was lawful prize of war and subject to condemnation.

J. N. STRIPLING,
U. S. Attorney.

(Endorsed:) United States vs. The "Bark Carlos F. Roses" and cargo. Claim of Kleinwort, Sons & Company. Assignments of errors. Filed Feb. 23, 1899. E. O. Locke, clerk.

28 In district court of the United States, southern district of Florida.

UNITED STATES *vs.* THE "CARLOS F. ROSES" AND CARGO.	Claim of Kleinwort, Sons & Company.

And now comes the plaintiff in the above cause, by J. N. Stripling, United States attorney for the southern district of Florida, considering itself aggrieved by the decision and decree of the court rendered herein on the eighth day of February, 1899, releasing the cargo of jerked beef and garlic set forth and described in the claim and test affidavit, and alleging error in the said decree, appears in open court and appeal therefrom to the Supreme Court of the United States. The said plaintiff

presents herewith an assignment of errors complained of, and thereupon prays that its said appeal may be allowed, and that the record may be duly certified to the Supreme Court of the United States, in accordance with the rules and practice in such case made and provided, to the end that the said appeal may be heard and determined by the said Supreme Court of the United States.

J. N. STRIPLING,
U. S. Attorney.

Upon reading and filing the foregoing notice and prayer of appeal and the assignment of errors the appeal of the said United States is hereby allowed.

Jacksonville, Fla., February 23, A. D. 1899.

JAMES W. LOCKE,
District Judge of the United States for the Southern District of Florida.

(Endorsed:) United States vs. The "Carlos F. Roses" and cargo. Claim of Kleinwort and Company. Notice of and order granting appeal. Filed Feb. 23, 1899. E. O. Locke, clerk.

29 District court of the United States, southern district of Florida.

THE UNITED STATES OF AMERICA,
vs.
THE SPANISH BARK "CARLOS F. ROSES" and Cargo. } Prize.

An appeal having been allowed and taken in this case and citation ordered, it is hereby ordered that, together with the transcript of record herein, the clerk of this court forward to the Supreme Court of the United States the original proofs and documents captured on this vessel.

Done and ordered at Jacksonville, Florida, this 20th day of March, A. D. 1899.

JAMES W. LOCKE, *Judge.*

Filed March 20th, 1899. E. O. Locke, clerk.

30 UNITED STATES OF AMERICA, ss.

To Kleinwort Sons & Company, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, D. C., on April 5th, 1899, pursuant to an appeal filed in the clerk' office of the district court of the United States for the southern district of Florida, wherein the United States is libellant and appellant against the Spanish bark "Carlos F. Roses" and cargo, to show cause, if any there be, why the judgment in the said appeal mentioned, entered on the eighth day of February, 1899, should not be corrected, and speedy justice should not be done to the parties on that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the

Supreme Court of the United States, this eight' day of March, in the year of our Lord one thousand eight hundred and ninety-nine.

[SEAL.] JAMES W. LOCKE,
U. S. District Judge.

Attest: E. O. LOCKE,
Clerk U. S. District Court, Southern District of Florida.

Due service of foregoing citation upon Kleinwort Sons & Co., claimants of cargo, is hereby admitted. March 14, 1899.

WILHELMUS MYNDERSE,
Proctor.

31 District court of the United States, southern district of Florida.

UNITED STATES OF AMERICA, LIBELLANTS,
vs.
THE BARK "CARLOS F. ROSES" AND HER CARGO. } In prize.

[Consular-General of the United States of America, City of London, England.]

I, Charles Frederick Harcke, of 20 Fenchurch street, in the city of London, manager to Messieurs Kleinwort Sons & Co., of the same place, merchants, make oath and say:

1. On or about the 14th day of March, 1898, Messieurs Pla Gibernau & Co., of Montevideo, in the Republic of Uruguay, shipped on board the above-named bark, "Carlos F. Roses," then lying at Montevideo, the following goods, viz: 110,256 kilos of jerked beef, 19,980 strings of garlic, 165,384 kilos of jerked beef.

2. On the 15th day of March, 1898, a bill of exchange payable at ninety days' sight for £2,714 13 8 was drawn by the said Messieurs Pla Gibernau & Co., upon the above-named Messieurs Kleinwort Sons & Co., to the order of the London and River Plate Bank, Limited, and on the 6th day of April, 1898, the said bill of exchange was accepted by the said Messieurs Kleinwort Sons & Co. The said bill was drawn in respect of the aforesaid 110,256 kilos of jerked beef and the said 19,980 strings of garlic, and is hereunto annexed and marked "A." On the 9th day
32 of May, 1898, the said draft was paid to the said London and River Plate Bank, Limited, as appears from the receipt endorsed thereon.

3. On the said 15th day of March, 1898, a bill of exchange for £3,583 11 6 at 90 days sight was drawn by Isidro Bertram Maristany upon the said Messieurs Kleinwort Sons & Co. to the order of the said Pla Gibernau & Co., and on the said 6th day of April, 1898, the said bill of exchange was accepted by them. The said bill of exchange was drawn in respect of the said shipment of 165,384 kilos of jerked beef, and is hereunto annexed and marked "B." On the 9th day of May, 1898, the said bill of exchange was paid to the London and River Plate Bank, Limited, to whom it had been endorsed by the payees. The said endorsement and payment appear on reference to the said bill of exchange.

4. At the time of the acceptance of the said bills of exchange, to-wit, on the 6th day of April, 1898, complete sets of bills of lading covering the

said shipments of 110,256 kilos of jerked beef and 19,980 strings of garlic were delivered over to the said Kleinwort Sons & Co. in consideration of their acceptance of said bill of exchange for £2,714 13 8 and as security to them for the liability incurred by them through their acceptance. The bills of lading for the 165,384 kilos of jerked beef were afterwards in like manner delivered over to the said Messieurs Kleinwort Sons & Co. in consideration of their acceptance of the said bill of exchange for £3,583 11 6 and as security to them for the liability incurred by them through their acceptance. The said bills of lading at the time of such delivery were duly endorsed in blank by Messi'urs Pla Gibernau & Co., the shippers of the said cargo, and to whose order the said cargo was by the terms of the bills of lading to be delivered, all with the intent and result of entitling Messieurs Kleinwort
33 Sons & Co. to the said bills of lading and to the cargo described therein as security for their acceptance.

This situation remained unchanged up to and including the 17th day of May, 1898, upon which date, as deponent is informed and believes, the said bark "Carlos F. Roses" and her cargo were captured as alleged prize.

The said cargo was ultimately destined for Don Pedro Pages, of Havana, who in the ordinary course of business would by payment to or indemnification of Kleinwort Sons & Co. or their agents in that behalf take up the said bills of lading and thus be enabled thereon to take the goods. No payment whatever has been made to Messieurs Kleinwort Sons & Co., or their agents, on account of the payments made by them through the said advances by said Don Pedro Pages, or by any person on his behalf or otherwise, and the said Kleinwort Sons & Co. have been and are wholly unindemnified in respect of their said payments except so far as the proceeds of the said cargo and the insurance thereon which as the owners of the said goods they have become entitled to collect, thereby subrogating to their own rights to the extent of such payments the insurers of the said goods.

5. The documents now produced to me and annexed to this my affidavit and marked "C," "D," "E," and "F" are respectively the bills of lading for the said 165,384 kilos of jerked beef.

6. The bills of lading and invoices for the 110,256 kilos of jerked beef and for the 19,980 strings of garlic were on the 9th day of April, 1898, sent by the said Messieurs Kleinwort Sons & Co. by post to Messieurs N. Gelak & Co., of Havana, bankers, who are the agents of the said Messieurs Kleinwort Sons & Co. there. The said Messieurs N. Gelak & Co. were at the same time advised of the acceptance of the aforesaid draft for £2,714 13 8, and they would in the ordinary course hold the
34 said documents until payment had been made by the consignee of the said goods. On the 17th day of June last a cablegram was sent by the said Messieurs Kleinwort Sons & Co. to the said Messieurs N. Gelak & Co., requesting them to return the documents enclosed to them as aforesaid, and in reply a cablegram was received that they had not been received. The original of the last-mentioned cablegram is now produced to me and marked "G." The said documents have not been received by the said Messieurs Kleinwort Sons & Co., and to the best of my knowledge and information and belief the same are lost. Certified copies of the bills of lading for the said 110,256 kilos of jerked beef and

19,980 strings of garlic have been obtained from the shippers, and the same are now produced to me and marked, respectively, "H," "I," "J," "K," "L," "M," "N," "O," "P," and "Q." The documents now produced to me and marked, respectively, "R" and "S" are true copies of the invoices of the said jerked beef and garlic, respectively. The bills of lading for the 165,384 kilos of jerked beef were not forwarded to Havana, but were retained by the said Messieurs Kleinwort Sons & Co., pending the disposal of the said cargo.

7. The said firm of Kleinwort Sons & Co. consist of Herman Greverus Kleinwort and Alexander Drake Kleinwort, who are both British subjects domiciled and carrying on a business within the United Kingdom of Great Britain and Ireland. I am the manager of the said firm, and as such the facts herein deposed to are within my personal knowledge, and I am duly authorized to make this affidavit on behalf of the said firm, the members of which are not personally acquainted with the various details herein deposed to.

C. F. HARCKE.

Sworn at the consulate-general of the United States of America at London, England, this 27th day of September, 1898, before me,
35 Francis W. Feigout, deputy consul-general of the United States of America, at London, England. [SEAL.]

(Endorsed:) United States of America vs. The Bark "Carlos F. Roses" and her cargo. Affidavit as to goods shipped by Pla Giberenau & Co. Filed Oct. 14. F. O. Locke, clerk.

36 This is the bill of exchange marked "A" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

Deputy Consul-General of the United States of America at London, England.

Received payment under discount from the acceptors, London, 9 May, '98, for the London and River Plate Bank, Limited, Hy K. Lunning, submangr. (40) Roofaryhy, chief accountant. No. 128. Montevideo, de Marzo de 1898. Por £2,714: 13: 8. A noventa dias vista se servirá Vd. mandar á pagar por esta primera de cambio (no habiéndolo hecho por la segunda ni la tercera), á la órden de The London River Plate Bank, Ld., la cantidad de dos mil setecientas catorce libras esterlinas 13″ 8′, valor recibido, que anotará Vds. en cuenta del S. Pedro Pages de la Habana, segun aviso.

PLA GIBERNAU SONS & CO.

A los Srs. KLEINWORT SONS Y CIA.,
Londres.

37 (Stamped on face:) D. 8 Jul. 98 A. (3 foreign revenue stamps). The London and River Plate Bank, Ltd., London, 9 Apr., 1898. Pla Gibernau & Ca., Montevideo. (Primera) (London and River Plate Bank, Limited. Montevideo B. R. 555). (Accepted 6 April, 1898. D. 96078. Payable at The London & Westminster Bank). (Kleinwort Sons & Co.) (The London & River Plate Bank, Limited, London (9238). (Kleinwort Sons & Co. A 61,908, London.) Pla Gibernau y Cia, Montevideo.

38 This is the bill of exchange marked "B" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

Deputy Consul-General of the United States of America at London, England.

No. 129. Montevideo, 15 de marzo de 1898. Por (8 Jul. 98) £3583:11:6. A noventa dias vista se servira Vds. mandar pagar por esta primera de cambio (no habiéndalo hecho por la segunda ni la tercua), á la órden de Pla. Gibernau y Cia. la cantidad de tres mil quinientas ochenta y tres libras esterlinas 11/6, Valor Factura carnetasajo por "Carlos F. Roses," que anotaran Vds. en cuenta del Sr. F. Roses Volenti de Baclona segum aviso *dc.*

YSIDRO BERTRAM MARISTANY.

A las SRS. KLEENWORT SONS Y CIA., *Londres.*

(Stamped on face:) (40) C. 8 Jul. 98 B. Three revenue stamps. The London and River Plate Bank. Limited. Primera. Pla Gibernau Cia. Accepted 6 April, 1898. C. 72692. Payable at The
39 London and Westminister Bank. Kleinwort Sons & Co.

London & River Plate Bank, Limited. B./R. 536. Montevideo. Primera. Kleinwort Sons & Co. (A 61,909) London. * * * The London & River Plate Bank, Limited, London (4239).

(Endorsed:) Pay the London & River Plate Bank, Limited, or order, Pla. Gibernau & Cia. Pla Gibernau & Ca., Montevideo. Received payment under discount from the acceptors. London, 9 May, 98 for London & River Plate Bank, Limited. Guy Z. Grimp, submanager. Bee Lauds, chief accountant.

40 This the bill of lading marked "C" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

C.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclade en este puerto para seguir viaje al de Habana, declaro haber recibide y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca. per cuenta y riesgo de quien pertenezca lo siguiente: (165,384) ciento sesenta y cinco mil tres cientos ochenta y cuatro kilos carne tasojo, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos terminos á la órden pagandome de flete, por cuenta de la expedición y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dado en Monteviedo á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevieclo. Pla Gibernau, J.

41 This is the bill of lading marked "D" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

D.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca lo siguiente: (165,384) ciento sesenta y cinco mil tres cientos ochenta y cuatro kilos carne tasajo, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagandome de flete, por cuenta de la expedición y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau, J.

42 This, the bill of lading marked "E," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

E.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., cuenta y riesgo de quien pertenezca, lo siguiente: (165,384) Ciento sesenta y cinco mil tres cientos ochenta y cuatro kilos carne tasajo, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete por cuenta de la expedición y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor *pro* mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau, J.

43 This, the bill of lading marked "F," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

F.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de enbierta de los Sres. Pla Gibernau & Ca., cuenta y riesgo de quien perteneeza, lo siguiente: (165,384) Ciento sesenta y cinco mil tres cientos ochenta y cuatro kilos carne tasajo, enjuto, bien acondicionado y marcado como al márgen, todo lo cual promoto y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete por cuenta de la expedición y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor *pro* mi firmados á solo efecto.

Dado en Montevicdeo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevicdo. Pla Gibernau, J.

44 This is the cablegram marked "G" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

Form No. 2. Trans-Atlantic Cable Company No. .

No. Message, 85. Offices, London, 23 Royal Exchange, E. C.; 16 E. C.; 1 Northumberland avenue, W. C.; Liverpool, F 3 Exchange Buildings; Manchester, 18 Moult Street Cross street; Newcastle-on-Tyne, 29 Sandhill; Bradford, 8 Forster Square; Glaskow, 67 St. Vincent street and 40 Hope st.; Dundee, 37 Albert square; Edinburgh, 34c Frederick street; Leith, 5 Bernard street; Bristol, Carlton Chambers, Baldwin st.; Cardiff, Cory's Corner, Bute Docks; Swansea, 15 Adalaide st.; Western-Super-Mare, 12 Richmond st.; Waterville, Co. Kerry. The Commercial Cable Company, Atlantic Ocean, Mackay-Bennett System. Received via Bermuda-Commercial Company, 9 Jun., 98. tal Exchange, London, E. C.

Date . The following cablegram received "via Commercial Cables," at 6 W. a. m. From Habana. No. of words, 7. To Kleinwort Sons & Co.: No los hemos recibido. Gelak.

(In pencil:) (Docts. "Carlos F. Roses.")

No inquiry respecting this message can be attended to without the production of this paper. Repetitions of doubtful words should be obtained through the company's office and not by direct application to the sender.

45 This the bill of lading marked "H," refer'ed to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

H.

Es copia del original.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil doscientos cincuenta y seis kilos carne tasajo, á granel; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete, siete reales fuertos, oro español, y 10% de capa por cada (46) cuarenta y seis kilos carne que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cinco conocimientos de un tenor *pro* mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

Las cargadores, PLA GIBERNAU I CA., J.

(Endorsed:) Pla Gibernau, J.

(Stamp:) Spaña, en Montevideo.

46 This the bill of lading, marked "I," refer'ed to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

I.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil dos cientos cincuenta y seis kilos carne tasajo, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes, oro español, y 10 % de capa por cada (46) cuarenta y seis kilos carne que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cinco conocimientos de un tenor *pro* mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

Los cargadores,

PLA GIBERNAU.

(Endorsed:) Pla Gibernau, J.

47 This the bill of lading, marked "J," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

J.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil dos cientos cincuenta y seis kilos carne tasajo (á granel), enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes, oro español, y 10 % de capa por cada (46) cuarenta y seis kilos carne que entregue y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cinco conocimientos de un *de un* tenor por mi firmados á solo efecto.

Dado en Montevieclo, á 14 de marzo de 1898.

Las cargadores.

(Endorsed:) Pla Gibernau, J.

48 This the bill of lading, marked "K," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,250) Ciento diez mil doscientos cincuenta y seis kilos carne tasajo (á granel), enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes, oro español, y 10 % de capa por cada (46) cuarenta y seis kilos carne que entregue, y para su cumplim'ento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cinco conocimientos de un *de un* tenor por mi firmados á solo efecto.

Dado en Monteviedo, á 14 de marzo de 1898.

Los cargadores, PLA GIBERNAU & Ca.

(Endorsed:) Pla Gibernau, J.

49 This the bill of lading, marked "L," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America,
at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil doscientos cincuenta y seis kilos carne tasajo (á granel), enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblige llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes, oro español, y 10 % de capa por cada (46) cuarenta y seis kilos carne que entregue, y para su complim'ento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un *de un* tenor por mi firmodos á solo efecto.

Dado en Montevi*edo* á 14 de marzo de 1898.

Los cargadores, PLA GIBERNAU.

(Endorsed:) to en este consulado de España; bueno para la legalización de los cinco firmas que anteceden de los Sres. Pla Gibernau y Ca. del comercio de esta plaza.

Montevideo, 21 de julio de 1898.

El consul de España. [STAMP.]

Montevideo
—— de órden 185
——— 57
Dros. in $3.00
——— 30
21 de julio 1898.

50 This the bill of lading marked "M" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargad*e* dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecient*os* ochenta ristras ajos, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me oblig*e* llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete ($0.06) seis centesimos, oro español, por *c*ada ristra que entregue, y para su cumplim'ento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un *de un* tenor por mi firmados á solo efecto.

Dado en Monteviedo, á 14 de marzo de 1898.

Los cargadores,

PLA GIBERNAU C, J.

(Endorsed:) Pla Gibernau, J.

(Stamp:) España en Montevideo, cor——.

51 This is the bill of lading marked "N" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

N.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta ristras ajos, enjuto, bien acondicionade y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete ($0.06) seis centesimos, oro español, por cada ristra que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

Los cargadores.

(Endorsed:) Pla Gibernau, J.

52 This is the bill of lading marked "O" referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta ristras ajos, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete ($0.06) seis centesimos, oro español, por cada ristra que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

Los cargadores.

(Endorsed:) Pla Gibernau, J.

53 This is the bill of lading marked "P" referred to in the affidavit of Charles Frederick Harcke, sworn to before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viajo al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novencientas ochenta ristras ajos, enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvemento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete ($0.06) seis centesimos, oro español, por cada riestra que entreger, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dade en Montevideo, á 14 de marzo de 1898.

Los cargardores.

(Endorsed:) Pla Gibernau, J.

54 This is the bill of lading marked "Z," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

(Es copia del original.)

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., por cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta ristras ajos; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete ($0.06) seis centesimos, oro español, por cada ristra que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuartro conocimientos de un tenor por mi firmados á solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

Las cargardores.

(Endorsed:) Pla Gibernau, J.

Vis. en este consulado de España.

Bueno para la legalización de la firma que antecede de las MM. Pla

Gibernau y Ca. del comercio de esta plaza. Montevideo, 21 de mar. de 1898.

MIN. DE CUCEM,
YM. CURDEUYES.

(Stamped:) Consulado de España; en mon oro.
Montevideo.
——— 186
——— 07
——— 300
——— 30

21 de ma. 1898.

55 This is the copy invoice marked "R," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America, at London, England.

R.

* * * * * * *

(Copia.)

PLA GIBERNAU AND CA.,
Montevideo:

Factura de 275,640 kilos carne tasajo á granel embarcado en la barca española "Carlos F. Roses," con destino á la Habana á la consignación de la órden por órden, cuenta y riesgo de los abajo anotados.

56 137,820 kilos carne tasajo á granel, $.9403 por % kils. $12,959.21
137,820 " " " " " .9534 " " " 13,139.76

275,640 kilos carne tasajo con 20 % mantas..... $26,098.97

GASTOS.

40 carradas paja para forro.....	$40.00	
34 tablas para forro.....	29.52	
viaje del capitan al saledero.....	30.00	
1 pieza arpillera para forro.....	10.00	
Telegramas á la Habana.....	51.96	
" " Barcelona.....	42.40	
" al saladero.....	3.00	
Corretage ½ %.....	130.49	
Reconocimiento 1 %.....	260.98	
		598.55
		26,697.32
W. comisión 3 %.....		800.92
S. E. O.		$27,498.24

CORRESPONDE.

60 % á la expedición del "Carlos F. Roses"..	165,384 kils.	$16,498.94
40 % á la Dn. Pedro Pages de la Habana....	110,256	10,999.30
	kils. 275,640	$27,498.24

Montevideo, 12 marzo 1898.

PLA, GIBERNAU & CA., *Montevideo.*

This is the copy invoice, marked "S," referred to in the affi-
57 davit of Charles Frederick Harcke, sworn before me this 27th day of September, 1898.

FRANCIS W. FEIGOUT,
Deputy Consul-General of the United States of America at London, England.

Viz:

(Copia.)

PLA GIBERNAU & CA.,
Montevideo:

Factura de 19,980 ristras ojas á granel embarcado en la barca española "Carlos Fco. Roses," con distino á la Habana á la consignación de la órden por órden, cuenta y riesgo de los abajo anatodos.

58	4,000 ristras ajos grandes, c. u. á $0.16.....	$640.00
	6,000 ristras ajos 1ª regulares, c. u. á $0.16.....	960.00
	9,980 ristras ajos 1ª regulares, c. u. á $0.15.....	1,497.00
	19,980 ristras ajos.....	3,097.00

GASTOS.

Permisos de embarque.....	$2.00	
Acarreo de 1 partida la banaco.....	6.00	
Lanchage de 1 partida.....	5.00	
10 jornales para atender el embarque.....	15.00	
		28.00
N. comisión 3 %.....		93.75
		121.75
S. E. ú O.....		3,218.75

CORRESPONDE.

A Dn. Pedro Pages, ristras.....	9,990	$1,609.37
A las que suscribera.....	9,990	1,609.38
	19,980	3,218.75

Montevideo, marzo 11 de 1898.
(Stamped:) Pla Gibernau & Ca., Montevideo.

59 United States district court, southern district of Florida.

UNITED STATES OF AMERICA, LIBELLANT,
vs.
THE BARK "CARLOS F. ROSES" AND HER CARGO. } In prize.

[Consulate-General of the United States of America, City of London, England.]

I, Charles Frederick Harcke, of 20 Fenchurch street in the city of London, manager to Messieurs Kleinwort Sons & Co., of the same place, merchants, make oath and say:

I refer to my previous affidavit sworn herein on the 27th day of September last, and I further say that since swearing the same, namely, on the sixth day of October, instant, the said Messrs. Kleinwort Sons & Co. received from Messrs. N. Gelak & Co., of Havana, enclosed in a letter dated 23rd September, 1898, the following document, that is to say: Three bills of lading for 110,256 kilos jerked beef, dated Montevideo, 14th March, 1898.

Three bills of lading for 19,980 strings garlic, dated Montevideo, 14th March, 1898.

Invoice for 275,640 kilos jerked beef, dated Montevideo, 12th March, 1898. Invoice for 19,980 strings garlic, dated Montevideo, 11th March, 1898.

The said documents are now produced to me and annexed hereto, and are respectively marked "T," "U," "V," "W," "X," "Y," "Z," and "Aa." No information or explanation is contained in the letter following the said documents as to how the same came into the possession of the said Messrs. N. Gelak & Co., but they appear to have done so on
60 or about the 17th September last, on which date they wrote to Messrs. Kleinwort Sons & Co., informing them that the said documents were in their hands.

C. F. HARCKE.

Sworn at the consulate-general of the United States of America at London, England, this 12th day of October, 1898, before me, Richard Westawtt, vice deputy consul-general of the United States of America, at London, England.

[SEAL.]

(Endorsed:) United States vs. "Carlos F. Roses." Affidavit verifying documents relating to goods shipped by Pla Gibernau & Co. Filed Oct. 24th, 1898. E. O. Locke, clerk.

61 This is the bill of lading marked "Y," referred to in the affidavit of Charles Frederick Harcke, sworn to before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

Y.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque, bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta riest'as ajos; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete seis centesimos de peso, oro español, por cada rist'a de ajos que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuatro conocimientos de un tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau, J.

62 This is the bill of lading marked "X," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

X.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta riest'as ajos; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete seis centesimos de peso, oro español, por cada rist'a de ajos que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuatro conocimientos de un tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau, J.

63 This is the bill of lading marked "W," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

W.

Yo, el abajo firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta riest'as ajos; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto á entregar en los mismos términos á la órden pagándome de flete seis centesimos de peso, oro español, por cada riest'a de ajos que entregue, y para su cumplimiento obligo mi persona y bienes, buque, aparejos y flete. En fé de lo cual os di cuatro conocimientos de un tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau, J.

64 This bill of lading marked "V," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

V.

Yo, el firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil doscientos cincuenta y seis kilos carne tasajo; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes oro sellado y diez por ciento de capa por cada (46) cuarenta y seis kilos que entregue y para su cumplimiento obligo persona y bienes, buque, aparejos y flete firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau.

65 This bill of lading marked "U," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

U.

Yo, el firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclade en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil doscientas cincuenta y seis kilos carne tasajo; enjuto, bien acondicionade y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes oro sellado y diez por ciento de capa por cada (46) cuarenta y seis kilos que entregue y para su cumpli*m*ento obligo persona y bienes, buque, aparejos y flete firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau.

66 This bill of lading, marked "T," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

T.

Yo, el firmado, capitan la barca española "Carlos F. Roses," que se halla surto y anclado en este puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro de dicho buque bajo de cubierta de los Sres. Pla Gibernau & Ca., per cuenta y riesgo de quien pertenezca, lo siguiente: (110,256) Ciento diez mil doscientas cincuenta y seis kilos carne tasajo; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado á *e*ntregar en los mismos términos á la órden pagándome de flete siete reales fuertes oro sellado y diez por ciento de capa por c*u*da (46) cuarenta y seis kilos que entregue, y para su cumpli*m*ento obligo persona y bienes, buque, aparejos y flete firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo 1898.

YSIDRO BERTRAM MARISTANY.

(Endorsed:) Pla Gibernau & Ca., Montevideo. Pla Gibernau.

67 This is the invoice marked "Aa," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTAWTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

68 Aa.

PLA GIBERNAU AND CA., *Montevideo.*

Factura de 19,980 ristras ajos á granel embarcado en la barca española "Carlos F. Roses," con destino á la Habana á la consignación de la órden por órden, cuenta y ri'sgo los abajo anotados.

4,000 ristras ajos grandes	á $0.16%		$640.00
6,000 " " 1ª rogulares "	0.16%		960.00
9,980 " " regulares "	0.15%		1,497.00
			3,097.00

GASTOS.

Permiso de embarque	$2.00	
Acarreo de una partida	6.00	
Lanchaje " "	5.00	
10 jornales para atender embarque	15.00	
		28.00
		$3,125.00
N. comisión 3%		93.75
		$3,218.75

S. E. ú O.

CORRESPONDE.

A Dn. Pedro Pages, ristras	9,990	$1,609.37
" las que suscriben "	9,990	1,609.38
Ristras	19,980	3,218.75

PLA GIBERNAU.

Montevideo, 11 marzo de 1898.

69 This is the invoice marked "Z," referred to in the affidavit of Charles Frederick Harcke, sworn before me this 12th day of October, 1898.

RICHARD WESTACOTT,
Vice and Deputy Consul-General of the United States of America, at London, England.

70 Z.

PLA GIBERNAU & CA., Montevideo.

Factura de 275,640 kilos carne embarcado en la bar'a española "Carlos F. Roses," con destino á la Habana á la consignación de la órden por órden, cuenta y riesgo de los abajo anotados.

137,820 kilos carne tasajo á granel $.9403 per % kils		$12,957.21
137,820 " " " " " .9534 " " "		13,139.76
275,640 kilos carne tasajo con 20% mantas		$26,098.97

GASTOS.

40 carradas paja para *porro*	$40.00	
34 tablas para *porro*	29.52	
Viajes del capitan al saladero	30.00	
1 pieza arpillera para forro	10.00	
Telegramas á la Habana	51.96	
" " Barcelona	42.40	
" al saladero	3.00	
Corretaje ½ %	130.49	
Reconocimiento 1 %	260.98	
		598.35
		$26,697.32
N. comisión, 3 %		800.92
		$27,498.24

E. E. i O.

CORRESPONDE.

60 % á la expedición del "Carlos F. Roses"	$165,384	kil. 16,498.94	
40 % " Dn. Pedro Pages de la Habana	110,256	" 10,999.30	
	Kils. 275,640	$27,498.24	

Montevideo, 12 marzo 1898.

PLA GIBERNAU C.

71 District court of the United States, southern district of Florida.

UNITED STATES OF AMERICA, LIBELLANT,
vs.
THE BARK "CARLOS F. ROSES" AND HER CARGO. } In prize.

[Consulate-General of the United States of America, City of London, England.]

I, Charles Frederick Harcke, of 20 Fenchurch street, in the city of London, manager to Messieurs Klienwort Sons & Co., of the same place, merchants, make oath and says:

I refer to my pre*i*rous affidavit sworn herein, and I further say that on the 18th day of October, instant, the said Messrs. Kleinwort Sons & Co. received from Messrs. N. Gelak & Co., of Havana, by letter from them, dated 4th day of October, 1898, three further bills of lading, namely, two dated 14th day of March, 1898, for 110,256 kilos of jerked beef, and one dated the said 14th day of *of* March, 1898, for 19,980 strings of garlic, all shipped by the above-named boat, "Carlos F. Roses," by Messrs. Pla Gibernau & Co., being portions of the cargo claimed in these proceedings by the said Messrs. Kleinwort Sons & Co. No information is given in the said letter of Messrs. N. Gelak & Co. as to the source from which the said documents came into their possession, but neither they or the other document already produced, relating to the said shipments of 110,256 kilos jerked beef and 19,980 strings carlic,

have since they were originally handed to the said Messrs. Kleinwort Sons & Co., in manner already deposed to been dealt with by them, except that the same were forwarded to Messrs. N. Gelak & Co.
72 by post, and I am unable to say where they have been in the meantime. The said documents are produced to me and annexed hereto and marked respectively, "C, F, H, 1," "C, F, H, 2," and "P, C, F, 3."

C. F. HARCKE.

Sworn at the consulate-general of the United States of America, at London, England, this 21st day of October, 1898, before me, Richard Westawtt, vice and deputy consul-general of the United States of America, at London, England. [SEAL.]

(Endorsed:) United States vs. "Carlos F. Roses." Further affidavit vérifying documents relating to goods shipped by Pla Gibernau & Co. Filed Nov. 7th, 1898. E. O. Locke, clerk.

73 This is the bill of lading marked "C. F. H. 1," referred to in the further affidavit of Charles Frederick Harcke.

RICHARD WESTAWATT,
Vice and Deputy Consul-General of the United States of America, at London, England.

C. F. H. 1.

(Stamped on face.)

Yo, el abajo firmado, capitan de la barca española "Carlos F. Roses," que se halla surto y anclado en puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro dicho buque, bajo de cubierta, de los Sres. Pla, Gibernau & Ca., por cuenta y riesgo de quien pertenez'a, lo siguiente: (110,256) Ciento diez doscientas concuenta y seis kilos carne tasajo; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto, á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes rio sellado y *die y* diez por *cuento* de capa por *cada* (45) cuarenta y seis kilos que entregue, y para su cumplimiento obligo mi persona y bien's, buque, aparejos y flete. En fé de lo cual os di ..... conocimientos de un *au* tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

ISIDRO BERTRAM MARISTANY.

(Endorsed:) Pla, Gibernau & Ca., Montevideo. Pla Gibernau, Ca. J.

74 This is the bill of lading marked "C. F. H. 2," referred to in the further affidavit of Charles Frederick Harcke.

RICHARD WESTAWATT,
Vice and Deputy Consul-General of the United States of America, at London, England.

C. F. H. 2.

(Stamped on face.)

Yo, el abajo firmado, capitan de la barca española "Carlos F. Roses," que se halla surto y anclado en puerto para seguir viaje al de Habana,

declaro haber recibido y cargado dentro dicho buque, bajo de cubierta, de los Sres. Pla, Gibernau & Ca., por cuenta y riesgo de quien pertenez'a, lo siguiente: (110,256) Ciento diez mil doscientas cincuenta y seis kilos carne tasajo; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto, á entregar en los mismos términos á la órden pagándome de flete siete reales fuertes rio sellado y diez por ciento de capa por cada (46) cuarenta y seis kilos que entregue y para su cumplimiento obligo mi persona y bien's, buque, aparejos y flete. En fé de lo cual os di.....conocimientos de un *un* tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

ISIDRO BERTRAM MARISTANY.

(Endorsed:) Pla, Gibernau & Ca., Montevideo. Pla Gibernau Ca., J.

75 This is the bill of lading marked "C. F. H. 3," referred to in the further affidavit of Charles Frederick Hareke.

RICHARD WESTAWATT,
Vice and Deputy Consul-General of the United States of America, at London, England.

C. F. H. 3.

Yo, el abajo firmado, capitan de la barca española "Carlos F. Roses," que se halla surto y anclado en puerto para seguir viaje al de Habana, declaro haber recibido y cargado dentro dicho buque, bajo de cubierta, de los Sres. Pla, Gibernau & Ca., por cuenta y riesgo de quien pertenez'a, lo siguiente: (19,980) Diez y nueve mil novecientas ochenta rastias ajos; enjuto, bien acondicionado y marcado como al márgen, todo lo cual prometo y me obligo llevándome Dios en buen salvamento con dicho buque al citado puerto, á entregar en los mismos términos á la órden pagándome de flete seis centesimos de peso, oro español, por cada riest'a de ajos que entregue, y para su cumplimiento obligo mi persona y bien's, buque, aparejos y flete. En fé de lo cual os di.....conocimientos de un *un* tenor por mi firmados á un solo efecto.

Dado en Montevideo, á 14 de marzo de 1898.

ISIDRO BERTRAM MARISTANY.

(Endorsed:) Pla, Gibernau & Ca., Montevideo. Pla Gibernau Ca., J.

76 United States district court, southern district of Florida. In admiralty.

I, Eugene O. Locke, clerk of the said court, hereby certify that the foregoing pages numbered from one to seventy-five, inclusive, is a transcript of the record and copy of the papers and evidence on file in my office in the case of the United States vs. the "Carlos F. Roses" & cargo, prize, lately adjudicated in the said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Jacksonville, in said district, this twenty-first day of March, A. D. 1899.

[SEAL.] EUGENE O. LOCKE, *Clerk.*

77 In the Supreme Court of the United States, October term, 1899.

THE UNITED STATES, APPELLANT,
against
KLEINWORT SONS & COMPANY, CLAIMANTS OF the cargo of the "Carlos F. Roses." } No. 243.

Stipulation.

It is hereby stipulated and admitted that the following translations of the Spanish documents in the record in this case are correct, and that the translation of a portion of the manifest of the cargo, which manifest was not included in the record or sent up with the other original exhibits in this case, is correct and is proper to be inserted in the record.

HENRY M. HOYT,
Assistant Attorney-General.
WILHELMUS MYNDERSE,
Counsel for claimant.

Dated October 30, 1899.

78 *Body of Exhibit A, annexed to Hawke's affidavit of September 27th, 1898.*

(Bill of Exchange for £2,714 13s. 8d.)

No. 128. Montevideo, March 15, 1898. For £2,714 13 8.

Ninety days after sight you will please pay for this first of exchange (the second and third being unpaid), to the order of the London River Plate Bank, L'd, the sum of £2,714 13 8, value received, which you will charge to the account of Pedro Pagés, of Havana, as per advice.

PLA GIBERNAU & Co.

To Messrs. KLEINWORT SONS & Co., *London.*

79 *Body of Exhibit B, annexed to Hawke's affidavit of September 27th, 1898.*

(Bill of Exchange for £3,583 11s. 6d.)

No. 129. Montevideo, March 15, 1898. For £3,583 11 6.

Ninety days after sight you will please pay for this first of exchange (the second and third being unpaid), to the order of Pla Gibernau & Co., the sum of £3,583 11 6 invoice value of jerked beef, per "Carlos F. Roses;" which you will charge to the account of P. Roses Valenti, of Barcelona, as per advice.

YSIDRO BERTRAN MARISTANY.

To Messrs. KLEINWORT SONS & Co., *London.*

80 *Body of Exhibits C, D, E, and F, annexed to Hawke's affidavit of September 27, 1898.*

(Bill of lading for 165,384 kilos of jerked beef.)

I, the undersigned, captain of the Spanish barque "Carlos F. Roses," now lying and anchored in this port, with destination for Havana,

declare that I have received and loaded on said vessel below decks, from Messrs. Pla Gibernau & Co., for account and risk of whom it may concern the following:

165,384 kilos of jerked beef, dry, in good condition, and marked as in the margin, all which I promise and bind myself, God bringing me safely with the said vessel to the said port, to deliver in the same condition to order, upon payment to me of freight on account of the shipment, and for the execution of this I bind myself personally, my property, vessel, appurtenances, and freight. In witness whereof I have given four bills of lading of the same tenor, signed by me, one of which being accomplished the others to stand void.

Given at Montevideo, March 14, 1898.

ISIDRO BERTRAN MARISTANY.

(Endorsed:) Pla Gibernau & Co., Montevideo.

81 *Body of Exhibits T, U, and V, annexed to Hareke's affidavit of October 12, 1898, and of Exhibit C. F. H. 1, annexed to Hareke's affidavit of October 19th.*

(Bill of lading for 110,256 kilos of jerked beef.)

I, the undersigned, captain of the Spanish barque "Carlos F. Roses," now lying and anchored in this port, with destination for Havana, declare that I have received and loaded on said vessel below decks, from Messrs. Pla Gibernau & Co., for account and at the risk of whom it may concern the following:

In bulk. 110,256 kilos of jerked beef, dry, in good condition, and marked as in the margin, all which I promise and bind myself, God bringing me safely with the said vessel to the said port, to deliver in the same condition to order, upon the payment of 7 reals in gold as freight and 10% as charges on every 46 kilos that I deliver. And for the execution of the same I bind my person, property, vessel, appurtenances, and freight. In witness whereof I have given five bills of lading of the same tenor, signed by me, one of which being accomplished the others to stand void.

Given at Montevideo, March 14, 1898.

YSIDRO BERTRAN MARISTANY.

(Endorsed:) Pla Gibernau & Co.

NOTE.—The body of exhibits H, I, K, and L, annexed to Hareke's affidavit of September 27th, and purporting to be copies of the original bills of lading, are in the same language, but carry the date of March 12th and do not carry the signature of the master, and they are attested by the signature of Pla Gibernau & Co., shippers.

82 *Body of Exhibits W, X, and Y, annexed to Hareke's affidavit of October 12, 1898, and of Exhibits C, F, H, 2, and C, F, H, 3, annexed to Hareke's affidavit of October 19th, 1898.*

(Bill of lading for 19,980 bunches of garlic.)

I, the undersigned, captain of the Spanish barque "Carlos F. Roses," now lying and anchored in this port, with destination for Havana, declare that I have received and loaded on said vessel, below decks, from Messrs.

Pla Gibernau & Co., for account and at the risk of whom it may concern, the following:

19,980 bunches of garlic, dry, in good condition, and marked as in the margin; all which I promise and bind myself, God bringing me safely with the said vessel to the said port, to deliver, in the same condition, to order, upon the payment to me, as freight, of six cents in Spanish gold for every bunch of garlic that I deliver; and for the execution of this I bind my person, property, vessel, appurtenances, and freight.

In witness whereof I have given five bills of lading of the same tenor, signed by me, one of which being accomplished, the others to stand void.

Given at Montevideo, March 14, 1898.

YSIDRO BERTRAN MARISTANY.

(Endorsed:) Pla Gibernau & Co.

NOTE.—The body of Exhibits M, N, O, P, and Q, annexed to Hareke's affidavit of September 27th, and purporting to be copies of the original bills of lading, are in the same language, but carry the date of March 12th, and do not carry the signature of the master, and they are attested by the signatures of Pla Gibernau & Co., shippers.

83 *Body of Exhibit Z, annexed to Hareke's affidavit of October 12, 1898.*

Invoice of 275,640 kilos of jerked beef in bulk, shipped on the barque "Carlos F. Roses," and bound to Havana, consigned to order for account and risk, and by order of the parties noted below:

137,820 kilos jerked beef, 9403 % kilos		12,959.21
137,820 " " " 9534 % "		13,139.76
275,640 " " " in bulk		26,098.97
Expenses:		
40 bales hay for cover	40.	
34 boards " "	29.52	
Trip of captain to salting place	30.00	
1 piece cloth for cover	10.00	
Telegrams to Havana	51.96	
" " Barcelona	42.40	
" " salting place	3.	
Brokerage ½ %	130.49	
Inspection 1 %	260.98	
		598.35
		26,697.32
Our commission 3 %		800.92
		27,498.24

E. & O. E.

Account of—			
60 % to the expedition or voyage of the "Carlos F. Roses"	165,384	kilos	16,498.94
40 % to Mr. Pedro Pagés, of Havana	110,256		10,999.30
	275,640	"	27,498.24

Montevideo, March 12, 1898. Pla Gibernau & Co.

NOTE.—The foregoing is also a translation of Ex. R, annexed to Harcke's affidavit of September 27, purporting to be a copy of the original invoice.

84 *Body of Exhibit A, A, annexed to Harcke's affidavit of October 12th, 1898.*

Invoice of 19,980 strings of garlic in bulk, shipped on the barque "Carlos F. Roses," bound to Havana, consigned to order for account and risk, and by order of the parties noted below.

4,000 strings garlic, large, at 0.16			640
6,000 " " 1st regular, 0.16			960
9,980 " " regular, at 0.15			1,497
19,980 " " in bulk			3,097
Expenses:			
Permit		2	
Cartage of one lot		6	
Lighterage " "		5	
10 days watching vessel		15	
		—	28
			3,125
Our commission, 3 per cent			93.75
			3,218.75

E. & O. E.

Account of—

Mr. Pedro Pagés, strings, 9,990		1,609.37
Of the undersigned, " 9,990		1,609.38
Strings	19,980	3,218.75

Montevideo, March 11, 1898. Pla Gibernau & Co.

NOTE.—The foregoing is also a translation of Exhibit S annexed to Harcke's affidavit of September 27, 1898, purporting to be a copy of the original invoice.

85 *Body of Exhibit G annexed to Harcke's affidavit of September 27, 1898.*

[Cablegram.]

JUNE 9, 1898.

From Havana to Kleinwort Sons & Co., London.

We have not received them.

GELAK.

86 *Portions of manifest of cargo, omitting formal parts and unfilled blanks.*

Class and name of the vessel: "Carlos F. Roses."
Tonnage: 499.
Flag: Spanish.
Registration: Barcelona.
Number of crew: 14.

Manifest which I, Ysidro Bertran Maristany, captain of the said vessel, proceeding from Montevideo, with destination for Havana and stopping places, present, signed by me, and visé̊d by the consul at Montevideo.

For Havana and stopping places.
In bulk: 248,076 kilograms of jerked beef.
" 19,980 bunches of garlic, 29,970 kilos.
Shipped at Montevideo. Consignees.
Shipped by Pla Gibernau Co. To order.
Signed at Montevideo, March 15, 1898.

(Signed) YSIDRO BERTRAN MARISTANY.

Visé̊d in this consulate of Spain. Good for Havana, with a cargo of jerked beef and garlic.
Montevideo, March 14, 1898.

JOSÉ CALABAYUD,
Consul of Spain.

87 (Indorsed:) Supreme Court of United States. October term, 1899. The United States against Kleinwort Sons & Co., claimants of cargo of "Carlos F. Roses." Stipulation and exhibits. Dated October 30, 1899.

88 (Indorsed:) File No., 17,338. Supreme Court U. S. October term, 1899. Term No., 243. The United States, appellant, vs. Kleinwort Sons & Co., claimants, &c. Stipulation and addition to record. Filed Oct. 31, 1899.

(Indorsement on cover:) File No., 17,338. S. Florida D. C. U. S. Term No., 243. The United States, appellant, vs. Kleinwort Sons & Company, claimants of the cargo of the Spanish bark "Carlos F. Roses." Filed March 29, 1899. Received office Supreme Court of U. S. Mar. 24, 1899.